

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

March 11, 2010

8:33 a.m.

**MEMBERS PRESENT**

Representative Bob Herron, Co-Chair  
Representative Cathy Engstrom Munoz, Co-Chair  
Representative John Harris  
Representative Wes Keller  
Representative Charisse Millett  
Representative Sharon Cissna  
Representative Berta Gardner

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 318

"An Act relating to public use of unregulated water systems."

- HEARD & HELD

HOUSE BILL NO. 202

"An Act relating to state and municipal building code requirements for fire sprinkler systems in certain residential buildings."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 318

SHORT TITLE: UNREGULATED POTABLE WATER SYSTEMS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

01/29/10	(H)	READ THE FIRST TIME - REFERRALS
01/29/10	(H)	CRA, RES
02/25/10	(H)	CRA AT 8:00 AM BARNES 124
02/25/10	(H)	Heard & Held
02/25/10	(H)	MINUTE(CRA)
03/11/10	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 202

SHORT TITLE: RESIDENTIAL SPRINKLER SYSTEMS  
SPONSOR(s): REPRESENTATIVE(s) HERRON

03/23/09 (H) READ THE FIRST TIME - REFERRALS  
03/23/09 (H) CRA, L&C  
03/11/10 (H) CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

PETE FELLMAN, Staff  
Representative John Harris  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 318 on behalf of the sponsor,  
Representative Harris.

KRISTIN RYAN, Director  
Division Environmental Health  
Department of Environmental Conservation  
Anchorage, Alaska

**POSITION STATEMENT:** Testified that passage of HB 318 would  
result in the state losing its primacy over drinking water.

WARD HURLBURT, M.D., Chief Medical Officer/Director  
Division of Public Health  
Department of Health and Social Services (DHSS)  
Anchorage, Alaska

**POSITION STATEMENT:** His testimony was read by Jill Lewis,  
Deputy Director, Division of Public Health, DHSS.

ROB EARL, Staff  
Representative Bob Herron  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 202 on behalf of the sponsor,  
Representative Herron.

DAVID SQUIRES, Fire Marshall  
City of Seward  
Seward, Alaska

**POSITION STATEMENT:** Testified in opposition to HB 202.

PAUL MICHELSON, Homebuilder  
Anchorage Homebuilders Association  
Alaska State Homebuilders Association  
National Association of Homebuilders  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 202.

JEFF TUCKER, President  
Alaska Fire Chiefs Association  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to CSHB 202,  
Version R.

DAVID OWENS, Inspector  
Owens Inspection  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 202.

ERIC MOHRMANN, Fire Chief  
Capital City Fire & Rescue  
City & Borough of Juneau  
Juneau, Alaska

**POSITION STATEMENT:** Expressed concerns with HB 202, Version R.

JESS HALL, Homebuilder  
Palmer, Alaska

**POSITION STATEMENT:** Opined that HB 202 makes sense.

#### **ACTION NARRATIVE**

[8:33:52 AM](#)

**CO-CHAIR BOB HERRON** called the House Community and Regional Affairs Standing Committee meeting to order at 8:33 a.m. Representatives Munoz, Herron, Keller, and Cissna were present at the call to order. Representatives Harris, Millett, and Gardner arrived as the meeting was in progress.

[8:34:08 AM](#)

#### **HB 318-UNREGULATED POTABLE WATER SYSTEMS**

[8:34:38 AM](#)

**CO-CHAIR HERRON** announced that the first order of business would be HOUSE BILL NO. 318, "An Act relating to public use of unregulated water systems."

[Before the committee is CSHB 318, Version 26-LS1357\R, Bullard, 1/29/10, adopted at the February 25, 2010 meeting.]

[8:34:43 AM](#)

PETE FELLMAN, Staff, Representative John Harris, Alaska State Legislature, said that it's clear that water is the most basic human need. He opined that with proper disclosure people should have the right to choose. He further opined that if the Department of Environmental Conservation (DEC) had followed its own regulations, this legislation wouldn't be before the committee today and people wouldn't have been forced to drive 45 miles to haul water. He pointed out that the Code of Federal Regulations (CFR) 40 §141.2 provides for variances for up to five years while DEC helps people upgrade their water systems via time and funds. He stressed that the well in Salcha has never tested positive for any contaminants.

[8:36:29 AM](#)

CO-CHAIR MUNOZ recalled that once there are 25 or more people using a well, a more restrictive standard is put in place. She inquired as to how many people are using the well in Salcha.

MR. FELLMAN answered that up to 40 families use the well in Salcha. However, DEC regulations require that each individual be counted. He noted that the committee packet should include a list of the individuals using the Salcha well.

CO-CHAIR MUNOZ related her understanding that many of the individuals used the Salcha well seasonally.

MR. FELLMAN confirmed that to be the case, and added that the list he provided to the committee covered a fairly broad spectrum of time. He recalled that when the lock was put on the well there were about 32 individuals using it, and thus from that time forward only 24 individuals were allowed to use the well.

[8:37:57 AM](#)

CO-CHAIR HERRON requested that Mr. Fellman describe Salcha.

MR. FELLMAN related that Salcha, which is part of the Fairbanks North Star Borough, doesn't have a government. Salcha is one of the longest communities in Alaska as it covers about 40 miles along the Richardson Highway south of Fairbanks. The geography is such that most people can't drill wells for water unless they live down by the river.

8:38:55 AM

REPRESENTATIVE CISSNA inquired as to the number of children in the Salcha area.

MR. FELLMAN estimated that perhaps 100 children live in the area.

8:39:47 AM

CO-CHAIR MUNOZ asked if DEC currently has a standard in statute for unregulated water.

MR. FELLMAN specified that the department can provide variances. For instance, for some wells DEC provides variances such that there is unregulated water when [the well] is used less than 60 days. Therefore, in the case of Salcha the sponsor is concerned that DEC didn't provide the opportunity to use a variance to allow for the Salcha well to be upgraded. In further response to Co-Chair Munoz, Mr. Fellman explained that DEC is the regulating authority and CFR 40 has been adopted in the state's regulations. He expressed concern that DEC didn't come to Salcha and offer the opportunity to help and provide time to address any problems.

8:42:43 AM

KRISTIN RYAN, Director, Division Environmental Health, Department of Environmental Conservation, explained that HB 318 technically prohibits DNR from stopping the consumption of water from a public water system that's posted a warning. However, DEC assumes the intent is to modify DEC's authority since it's the department that regulates public water systems. The authority of DNR is restricted to ensuring people have access to water, while DEC has the authority to regulate consumption from a public water system. She opined that modifying DNR's authority rather than DEC's authority was a drafting error. Ms. Ryan then emphasized that the state has primacy over drinking water from the Environmental Protection Agency (EPA), which means the state has primary enforcement authority for the U.S. Safe Drinking Water Act. Therefore, the state via DEC implements the federal laws in Alaska as long as an adequate job is done and the state's rules are equal to the EPA guidelines for the Safe Drinking Water Act. Unfortunately, HB 318 wouldn't meet that standard as it changes the definition of a public water system and allows a public water system to opt out of being a water system so long as a warning is posted. The

federal definition, she explained, defines a public water system and if that definition is met, then a public water system exists and there is no opt-out provision. Therefore, if HB 318 passes, the EPA would revoke DEC's enforcement authority and EPA would enforce the [federal] rule that already exists. Ms. Ryan opined that the legislation doesn't accomplish the desired effect of eliminating any burden on the water system, rather it increases the burden because the EPA would take over enforcement rather than the state. She noted that of the many benefits of primacy, significant funding is the top benefit. Currently, the federal government gives the state \$4.2 million to implement its rules, while the state match is \$1.6 million. In addition the state receives funding that's loaned or granted to communities to construct or repair existing water systems. The state's capitalization grant this year is \$13 million, which can be utilized by small public water systems to comply with the standard. This year's state capitalization grant is higher than the average \$8 million because of the stimulus recovery effort. She then pointed out that there is a cadre of tools the state is able to utilize that EPA wouldn't be able to if the EPA had primacy. For instance, DEC can hire third party inspectors. She related her understanding that Alaska is the only state she knows about that pays private engineers to inspect and provide technical assistance to water systems. In fact, about 75 percent of the sanitary surveys are performed by third party inspectors. An additional benefit to the state having primacy is the state's ability to grant variances or exemptions. The EPA has drafted 23 rules with which public water systems have to comply. The state doesn't have primacy for all of those rules and is working on obtaining primacy for rules 17-19. She explained that variances or exemptions have specific limitations such that they can't be granted for a rule that could have an immediate impact on human health. Variances and exemptions are allowed for chronic contaminants. For example, DEC has granted many variances and exemptions on the Kenai Peninsula for arsenic. Variances and exemptions, she further explained, can't be granted for water systems to never apply, but rather are tools that allow time to find a better source of water, collect necessary resources. Although variances and exemptions have limitations, they're incredibly useful and allow many systems to remain in compliance that wouldn't otherwise.

MS. RYAN informed the committee that in the case of the Salcha water system, the [owners of the Salcha water system] don't want to test at all. However, a variance or exemption to not test or not be a water system can't be granted. She reiterated that variances and exemptions can only be granted to provide time to

comply with specific rules. With regard to an earlier question regarding standards, the state also regulates water systems that fall below the federal definition, but doesn't regulate private wells. For example, the state regulates, albeit to a much lower standard, those water systems that serve less than 25 individuals per day and don't serve a duplex, which is the position in which Salcha is. Therefore, systems such as Salcha are required to do monitoring, although to a lesser scale than federally regulated water systems.

[8:52:08 AM](#)

MS. RYAN, in response to Representative Keller, confirmed that there is a definition of a "public water system" in the federal regulations, which were implemented because of the Safe Drinking Water Act. However, the State of Alaska also has a definition of a "public water system" in its regulations that goes further because it covers the smaller water systems that the federal government doesn't regulate. Because Alaska's definition is more stringent than the federal definitions, Alaska's program is acceptable and has been approved by the EPA. If HB 318 were to pass, then the state's definition of a "public water system" would be less stringent than that of the EPA, and thus the state's program wouldn't be approvable.

[8:53:32 AM](#)

MS. RYAN, in further response to Representative Keller, said that water systems shift [in and out of being a public water system and not being a public water system]. Furthermore, the federal government is mostly concerned about water systems that serve a non transient community, people who are drinking the water all the time. She pointed out that there are many federally regulated public water systems in Alaska that are only considered a public water system during the summer. Ms. Ryan clarified that a public water system is only considered as such when it's a watering point with a well or a piped system that feeds the water at the end of the pipe. However, 25 people drinking water from a river without utilizing a piped system wouldn't be considered a federally regulated water system.

[8:55:26 AM](#)

REPRESENTATIVE GARDNER asked if it's certain that passage of HB 318 would revoke state primacy on drinking water. If so, she inquired as to how long the process would take.

MS. RYAN answered that although DEC is waiting on the official EPA document that would specify the aforementioned, DEC has been informed that passage of HB 318 would result in the revocation of the state's primacy. The department has also been informed that the revocation of the state's primacy would occur rather swiftly and that funding from this fiscal year would be withdrawn, and thus may need to be repaid. Furthermore, the EPA has warned DEC that the situation is being watched closely.

[8:56:33 AM](#)

CO-CHAIR HERRON emphasized that just because the legislature is discussing something, doesn't mean that it will happen. He asked if DEC has shared the aforementioned with the EPA.

MS. RYAN explained that the EPA is aware of HB 318 and DEC has related to the EPA the steps it will take to inform the legislature of the impacts of HB 318. The EPA has warned DEC that passage of HB 318 would result in the EPA not certifying the state's program. Although she said that she didn't know how quickly it would occur, the EPA seemed fairly serious, she related.

CO-CHAIR HERRON expressed concern regarding this threat from the federal government that it will pull current year funding just because the legislature is discussing a local issue. He suggested that Ms. Ryan relate to the federal government that the legislation has a long way to go before it could become law.

MS. RYAN related that she has told the EPA the aforementioned. She clarified that the EPA would only revoke funding if the legislation passes and becomes law.

[8:58:20 AM](#)

REPRESENTATIVE CISSNA inquired as to how much it would cost the state to help Salcha achieve a better water system and standards.

MS. RYAN answered that it wouldn't take much at all. The Salcha water system is a ground water system that seems to be clean from the limited testing the department has seen. For such a water system, Ms. Ryan estimated that it would cost approximately \$15,000 for the initial engineer review and checking to ensure the well is cased correctly. Also the average testing costs for an average ground water system that doesn't have any treatments is about \$500 per year.

9:00:21 AM

REPRESENTATIVE CISSNA related that she attended the National Public Health Conference during which there was a presentation on safe water, which focused mainly on Alaska. During the presentation it was said that nationally about 99 percent of water is clean, whereas only about 70 percent or so of Alaska's water is considered clean. The presentation provided much information regarding the impacts of unclean water on Alaskan infants. She opined that physical and emotional damage occurs when one in three children in communities with unsafe water are sent to hospitals [outside the community in which the child lives] and away from the parents. Therefore, she understood the concern for the safety of humans, especially children. She asked if DEC contemplates the aforementioned.

MS. RYAN said she isn't familiar with those statistics. However, she related her understanding that Dr. Hurlburt, Director, Division of Public Health, has related his personal experiences when villages didn't have safe drinking water sources and the high rates of disease and sickness in infants in particular. Ms. Ryan emphasized that there is a marked change in the health of communities when they have a safe drinking water source. Since most of Alaska's communities have had safe drinking water since the 1970s, she said that nothing has dramatically changed since then.

9:03:08 AM

CO-CHAIR HERRON inquired as to why the Fairbanks North Star Borough isn't involved since Salcha is in the borough.

MS. RYAN said that while a public water system is often run by a government organization, they aren't necessarily run by the city and borough government. The DEC isn't concerned with who runs the water system; the concern is that it's run safely.

9:04:28 AM

CO-CHAIR HERRON announced the intent of the co-chairs to bring HB 318 before the committee again next week.

9:05:18 AM

WARD HURLBURT, M.D., Chief Medical Officer/Director, Division of Public Health JILL LEWIS, Deputy Director, Division of Public

Health, Department of Health and Social Services (DHSS), had his testimony read by Jill Lewis, Deputy Director, Division of Public Health, DHSS, as follows:

As I read the background about this bill, I certainly sympathize with the residents of Salcha who clearly felt that they were doing a good thing for their neighbors, to provide a well for them in a community location. I also understand the intent to try to shield the residents of Salcha and other Alaska communities from unnecessary and burdensome state regulation. I first worked in Alaska as a physician in 1961 when I lived in Dillingham, in the days before the state and federal government began to collaborate on projects to bring safe water and sanitation to remote and rural communities across Alaska; a process that is ongoing and certainly not yet complete. As a young physician, I was impressed with a large number of very sick toddlers and infants who needed to be hospitalized and placed on intravenous fluids due to severe gastroenteritis and diarrhea. In 1962 I presented a scientific paper at the National Institute of Health contrasting the incidents of this serious and sometimes fatal health problem between breast fed and bottle fed infants. The breast fed infants seldom contracted this condition and it was all too common in bottle fed infants and toddlers. Over the years, as safe water and sanitation systems were installed across Alaska the number of sick young children and infants with gastroenteritis dramatically declined. Today there are fewer in patients in each of the tribal health system field hospitals than there were in the 1960s. The major reason for this dramatic change has been the reduced number of sick infants and young children with gastroenteritis and those of similar age who were ill with complications of now vaccine preventable communicable diseases. The regulations that were put in place to protect the public from unsafe water were a response to the serious morbidity and mortality occasioned by the use of unsafe water by Alaskans. The regulations are not onerous, but are common sense and responsible. You have heard from DEC that they tried to administer this regulation in a supportive, helping manner. You've also heard that in the absence of an Alaska regulation, the federal Environmental Protection Agency will administer the federal requirements and

take away the \$7.5 million federal grant used to administer this public service regulation. While I sympathize with the good intentions behind this bill and the frustration on the part of the Salcha residents who felt they were doing a good thing, I must express concerns with this bill. The assurance of safe water supplies is a core responsibility of good government.

9:08:40 AM

MR. FELLMAN, in response to Co-Chair Herron, specified that the well is maintained by the Salcha Fair Association as it's located on the fairgrounds' property. One individual has control of the keys to the well.

CO-CHAIR HERRON then inquired as to why the Salcha Fair Association isn't interested in having a water system.

MR. FELLMAN related that the Salcha Fair Association and the residents in the area are interested in having a water system and the well has been tested twice yearly and been clean. The issue is the cost of the engineering to upgrade the well. Mr. Fellman opined that because of CFR 40, DEC has regulations in place that provide, in certain economic situations, federal funds to the state to upgrade, educate, and help [construct] safe water systems. He explained that three years can be provided to upgrade a well and then a five-year extension. However, a certain standard must be met. Mr. Fellman opined that Salcha merely needs a variance to meet a standard within a reasonable timeframe. Such a variance could allow Salcha time to obtain the funding for the engineering and upgrades. However, DEC chose to cut off people from the Salcha water system.

9:11:12 AM

CO-CHAIR MUNOZ asked if Salcha residents pay taxes to the borough.

MR. FELLMAN replied yes. In further response to Co-Chair Munoz, Mr. Fellman said that he didn't know whether the Salcha residents have petitioned the borough government for assistance.

9:11:36 AM

CO-CHAIR HERRON asked if DEC has worked with the borough government since there is no tribal or city government related to this well.

MS. RYAN replied no. She informed the committee that the Fairbanks North Star Borough doesn't even run the public water system in Fairbanks. The public waters systems in the Fairbanks North Star Borough tend to be privately held.

CO-CHAIR HERRON suggested that [HB 318] provides an opportunity to create a new way to provide safe water.

MS. RYAN reiterated that many privately held entities have chosen to run their water system to ensure safe drinking water. She explained that water system members can approach the department or other funding sources to obtain resources to get their system into compliance. The program provides millions of dollars in loans and grants are available to communities to perform upgrades. The department works with interested entities, but the department can't make entities seek these opportunities.

[9:14:20 AM](#)

CO-CHAIR HERRON announced the intent of the sponsor and the co-chairs to work on this legislation. He further announced that the fiscal note will change to a net zero as he doesn't appreciate the threat [from the federal government]. He reiterated that HB 318 would be held over.

[9:14:56 AM](#)

REPRESENTATIVE CISSNA asked if it's possible for DEC to give loans to communities, which the communities could repay.

MR. FELLMAN acknowledged that there is federal money available. He emphasized that the community just needed time and technical assistance to upgrade the well. He opined that the community of Salcha isn't opposed to gathering the \$15,000 to upgrade the well, the community just needed a variance in order to have the time to work with DEC to craft a plan to upgrade the well. With regard to health concerns, Mr. Fellman expressed concern with the regulation that essentially isn't concerned [with the health] of those using a water system when there are less than 25 people who use it.

[HB 318 was held over.]

## HB 202-RESIDENTIAL SPRINKLER SYSTEMS

9:16:40 AM

CO-CHAIR HERRON announced that the final order of business would be HOUSE BILL NO. 202, "An Act relating to state and municipal building code requirements for fire sprinkler systems in certain residential buildings."

9:16:52 AM

CO-CHAIR MUNOZ moved to adopt CSHB 202, Version 26-LS0776/R, Cook, 3/9/10, as the working document. There being no objection, Version R was before the committee.

9:17:39 AM

ROB EARL, Staff, Representative Bob Herron, Alaska State Legislature, speaking on behalf of the sponsor, Representative Herron, informed the committee that proposed Version R is the same version as the companion legislation in the Senate Labor and Commerce Standing Committee. Mr. Earl explained that the original legislation specified that municipalities couldn't, for any reason, mandate sprinklers in any single- or double-family residences. Version R, however, requires municipalities go through a public process prior to mandating sprinklers in single- and double-family residences. Also, Version R allows the mandate to specify such a requirement in a certain type of neighborhood or construction. He further explained that Version R requires that prior to a municipality mandating sprinkler systems in new construction of residential buildings with one- or two-family dwellings, the municipality must: perform a cost-benefit analysis; publish a summary of the ordinance and the cost-benefit analysis and notice the time and place of each scheduled public hearing at least 30 days prior to the first public hearing; and hold three public hearings within a 60-day period.

9:19:54 AM

REPRESENTATIVE GARDNER inquired as to how the requirements of HB 202 compare to existing processes. She inquired as to why only fire sprinkler systems are being targeted.

CO-CHAIR HERRON explained that Version R merely extends the discussion that will happen in the community, and some would say it's a more transparent process.

MR. EARL added that there is a lengthy building code adoption process. With regard to why have a mandate just for fire sprinklers, Mr. Earl pointed out that it could be an expensive process that would add to the price of homes. Therefore, the sponsor feels it's important to spotlight the code regarding sprinklers and provide more public review. Although the code adoption process does go through an extensive public review, the sprinkler mandate would be included with all the other codes and thus this legislation would make it more transparent.

[9:23:09 AM](#)

DAVID SQUIRES, Fire Marshall, City of Seward, began by specifying that his concerns are related to the language on page 1, lines 7-14 and page 2, lines 1-5. He highlighted that the state already has a process for adopting building, fire, and residential codes. He then reminded the committee that these codes are at the municipal level and the state doesn't enforce or enact these codes. This legislation proposes to require the municipality to enact an ordinance if they want to have sprinklers in their area. He directed attention to the language on page 1, line 8, and pointed out that sprinkler systems have been utilized in lieu of other requirements, such as water systems. He then informed the committee that DEC doesn't allow private wells within 1,000 feet of a municipal well. If the municipality doesn't extend that water system, the residential homeowner has to do so. The aforementioned is a higher expense than a sprinkler system would be.

MR. SQUIRES related that the sprinkler system requirement has been used to reduce construction costs in the City of Seward, where municipal water systems aren't available. The aforementioned hasn't impacted the rest of the community, he said. He explained that without the ordinance, the tax base of the rest of the community will be impacted because of the need to purchase additional tankers to haul water to residences. Furthermore, another building will have to be constructed/acquired in order to house the additional equipment. Thereby, HB 202 would increase the cost of residential construction in the City of Seward and would increase the tax rate to everyone living in the area. He noted that the committee packet should include a letter from the manager and mayor of the City of Seward, both of whom also oppose HB 202.

He highlighted that the letter relates the view that HB 202 is an infraction on the City of Seward's rights as a home rule city and doesn't listen to the residents of Seward.

[9:27:23 AM](#)

PAUL MICHELSON, Homebuilder, Anchorage Homebuilders Association, Alaska State Homebuilders Association, National Association of Homebuilders, informed the committee that he has served on the following code related organizations: the International Code Council (ICC), the Fire and Life Safety Committee, and the International Residential Code (IRC) Building and Energy Committee. He related that he currently sits and has sat on the Building Board for the Municipality of Anchorage, which deciphers and approves codes in the Municipality of Anchorage (MOA), for 17 years and has been chairman three times. He further related that he sits on the NHBCCS Committee, which is an oversight and review committee that watches how codes are introduced and challenges codes at the ICC level. He noted that he has sat on the aforementioned committee for about 14 years. Mr. Michelsohn pointed out that in the MOA there is a process, albeit a flawed process or one that's not exercised. In Anchorage, the 2009 edition of the IRC is being worked on. The aforementioned addition is the code that included the fire sprinkler requirement in the body of the code rather than the appendix of the code. The process in Anchorage is one in which the building official, an appointed official, elects a committee to review the codes and makes suggestions regarding amendments, deletions, and additions to the building official. The building official, referred to as an authority of jurisdiction (AOJ), has the final say. Mr. Michelsohn noted that the AOJ doesn't necessarily have to be a building official. From the AOJ, the [code] goes to the building board in Anchorage for review. He noted that in the many years he has served, he didn't recall the code ever failing at that level. The code is then forwarded to the city attorney at which point the code is publicized once for a meeting of the assembly. At the six MOA Assembly meetings on the code, he related that he has never seen a public individual testify. The system doesn't have the public input necessary for this [proposed fire sprinkler] code. Therefore, this legislation has been introduced, he opined, because the [proposed fire sprinkler] code is the single most [significant] code change ever introduced that will have a monetary impact on the consumer. Mr. Michelsohn highlighted that the legislation says that "this requirement is only necessary if a jurisdiction mandates all new construction". If a jurisdiction believes it's necessary to protect a historic building or region, the

jurisdiction can negotiate with the builder regarding the possibility of utilizing a sprinkler system. He opined that this battle has been going on for many years. The builders of the state want to be more proactive and thus are requesting the legislature's support for HB 202.

[9:32:44 AM](#)

REPRESENTATIVE GARDNER asked if some jurisdictions have already passed codes requiring all new buildings have sprinkler systems, or is the desire to preemptively address jurisdictions of the possibility that jurisdictions might pass such codes.

MR. MICHELSON answered that no Alaska jurisdictions have adopted the code [requiring all new buildings have sprinkler systems], although Anchorage is reviewing the 2009 code that includes the fire sprinkler requirement. He related that the building official and fire marshall of Ketchikan tried to slip in this mandatory fire sprinkler requirement for all buildings, and it remains up for question whether they will try to introduce the aforementioned requirement. In further response to Representative Gardner, Mr. Michelsohn explained that the IRC code book addresses one- and two-family dwellings while triplexes and above are addressed by the International Building Code. He further explained that all jurisdictions that adopt the ICC edition of the IRC are faced with amending or adopting the code in its entirety. He related that several jurisdictions and states have banned [the proposed mandatory fire sprinkler system requirement].

[9:36:41 AM](#)

CO-CHAIR HERRON announced his intent to move HB 202 from committee next week.

[9:36:53 AM](#)

CO-CHAIR MUNOZ, drawing from her experience on the Juneau Assembly, related her understanding that IBC changes come up regularly and are reviewed by local individuals every three years. The changes, she related, are complex and in many cases have substantial financial impacts.

[9:37:52 AM](#)

REPRESENTATIVE CISSNA asked if Mr. Michelsohn is familiar with studies that show the effectiveness of sprinkler systems and the level of benefit they provide.

MR. MICHELSON informed the committee that the National Association of Homebuilders disagrees with the statistics that have been presented [regarding the effectiveness of sprinkler systems] as they don't believe they're as accurate as they've been portrayed. In response to Representative Keller, Mr. Michelsohn said that he would make himself available at the next hearing on HB 202. He noted that he isn't paid to testify.

[9:39:53 AM](#)

JEFF TUCKER, President, Alaska Fire Chiefs Association, related the Alaska Fire Chiefs Association's opposition to CSHB 202, Version R. He told the committee that there has already been testimony in opposition on the companion legislation, CSSB 129, from the cities of Kenai, Juneau, Ketchikan, Kodiak, Seward, Sitka and the Fairbanks North Star and Mat-Su Boroughs as well as resolutions from the Alaska Municipal League and the Kodiak Island Borough supporting the ability of Alaska communities to adopt code and ordinances at a local level. Mr. Tucker emphasized that the state doesn't place these extraordinary burdens required by Version R on communities for any other ordinance adoption process. Therefore, he questioned why the state feels such is necessary when a community is trying to determine how best to provide life safety services to its residents. He opined that there are already robust procedures in place when municipalities adopt building codes. These procedures involve community members, building officials, contractors, fire officials, homeowners, architects, engineers, and others who can best determine the needs of the local community. He referred to a document entitled "Municipal Code Adoption Processes", which took the comparison between CSSB 129, proposed in the Senate Labor and Commerce Standing Committee, and added the minimum ordinance adoption requirements per AS 29.25.020. The comparison illustrates the importance local communities place on the code adoption process and the extra steps that are already in place for the appointment of standing committees, multiple public hearings, and a review process that may last from several months to over two years prior to code adoption. Mr. Tucker opined that the aforementioned process already provides a transparent process that allows involvement from members of the community. Additionally, he opined that there is no state need met by requiring local communities to add requirements and expense to their existing process. "No other

ordinance adoption process has a requirement mandated by the state to do a cost benefit analysis," he highlighted. Although the cost of a residential sprinkler system, which has been estimated to be \$3,000, has been cited as the reason HB 202 is necessary, he pointed out that in Alaska there are already many tax credits and other incentives to help offset the costs for the installation of residential sprinklers. In fact, under AS 29.45.030 2 percent of the assessed value of the structure is exempt from taxation if the structure contains a fire protection system. Therefore, for a \$250,000 home, \$5,000 of the value of the home is exempt from taxation for as long as the property owners own the home. He then informed the committee that on January 27, 2010, Kevin Temple, owner of Interior Appraisals, gave a presentation to the Interior Alaska Homebuilders Association regarding appraisers. The presentation spoke about the credit appraisers were giving to residential sprinkler systems in Alaska. In fact, he related that he recently performed an appraisal of an approximately 1,400 square foot home with a residential fire sprinkler system for which he gave a \$3,000 credit. Mr. Tucker then related the following from the Alaska Division of Insurance: "The three largest insurers in the State of Alaska: State Farm, AllState, and USAA, all gave credit for residential sprinklers ranging from 8 to 10 percent for full coverage systems and State Farm and USAA gave from 5 to 8 percent for a partial system." In conclusion, Mr. Tucker opined:

If the sponsors of this legislation are truly interested in achieving their stated goal of protecting the homeowners from the cost of installation of residential fire sprinklers, we should be here discussing legislation on how we could do more to place incentives in place and offset even further the cost involved in the installation of residential sprinklers. The proponents of this legislation stated it is needed to protect the interest of homeowners; we feel it is the local communities who are best able to determine the needs of residents not the state. Local communities have working code adoption processes that have served them and their residents well for many, many years. CSHB 202 does not improve the local code adoption process, it only places unfunded and unnecessary requirements on local communities. Again, the Alaska Fire Chiefs Association stands opposed to the adoption of CSHB 202.

[9:45:56 AM](#)

CO-CHAIR HERRON inquired as to why Anchorage isn't one of the communities in opposition to this legislation.

MR. TUCKER clarified that when fire chiefs from the various communities speak they are speaking on behalf of the community in which they serve. The City of Anchorage has decided that there is no opposition to this legislation, which is a decision the local community can make. The aforementioned makes the already stated point that a local community can best determine its needs, particularly in terms of the IRC. He reiterated that the state shouldn't mandate [fire sprinkler systems].

[9:47:34 AM](#)

DAVID OWENS, Inspector, Owens Inspection, informed the committee that he has been a building inspector for 27 years. He then stated his support for HB 202 as he doesn't believe it's unreasonable to allow the public more input. He related his understanding that the current state regulation for municipalities is five-day notice and one hearing, which some local jurisdictions follow. He then turned to the 2008 version of the National Electrical Code, which was done over a holiday period with short public notice and one public hearing. The aforementioned caused a lot of his clients to call him regarding their concerns about the process. In conclusion, Mr. Owens stated his support of allowing public notice and analysis of the costs of such a significant change [as mandating fire sprinkler systems in one- and two-family dwellings].

[9:49:45 AM](#)

ERIC MOHRMANN, Fire Chief, Capital City Fire & Rescue, City & Borough of Juneau, began by emphasizing that the City & Borough of Juneau already has a robust code adoption process. The committee that is designated to review the codes every three years is comprised of private individuals: a civil, mechanical, and electrical engineer, an architect, and a contractor. This committee meets with the building official and the fire official. In over two-and-a-half years of publicized public meetings the code is reviewed line-by-line and recommendations are developed. The local jurisdictions, which are deferred, are allowed to modify the code provisions so long as they are at least as stringent as those adopted by the State Fire Marshall's Office. The code provisions can exceed the specifications of the State Fire Marshall, which is why they're deferred. Over the two-and-a-half year process, public input is taken in each

meeting and the minutes are made public. The compiled recommendations are taken to the Public Works and Facilities Committee (PWFC) of the Assembly. The aforementioned committee, which is comprised of elected assembly members, listens to the recommendations and discusses them in detail. These meetings, he noted, are also publicized and open for public testimony and the minutes are available to the public. After several meetings with the PWFC, their work goes to the assembly for a minimum of two readings. The first meeting is an introductory meeting during which all the information is made available to the public. The second meeting that occurs 30 days later is a meeting that allows public testimony on the information or discussion on particular matters. At this point, the assembly can vote on the matter or send it back to the committee. The aforementioned process is followed by the City & Borough of Juneau as well as other similar jurisdictions. Therefore, he said he was surprised to hear the earlier testimony characterizing the Anchorage process as flawed. If that's the case, Anchorage should fix it, he opined. Juneau's process, he opined, works very well. Mr. Mohrmann related that Juneau considers code provisions, fire and building code provisions, which far exceed the cost of installation of residential sprinkler systems. However, none of those code provisions are scrutinized or made to stand up to a cost benefit analysis or the three public meetings. He noted that Juneau already exceeds the three public meetings, which is also the case with most jurisdictions. Mr. Mohrmann said that he's not sure what a cost benefit analysis is as it isn't specified in the legislation. He then turned to the issue regarding whether this [proposed code] would apply to all residents or to selected residents. He questioned whether selectively applying the code is even legal. In conclusion, Mr. Mohrmann related that the City & Borough of Juneau feels that its existing process is very rigorous and additional burdens aren't necessary to address this topic.

[9:55:03 AM](#)

CO-CHAIR HERRON announced that the committee will likely address concerns about the cost benefit analysis next week. Therefore, he charged Mr. Mohrmann to provide any recommendations he saw fit. He then inquired as to why Mr. Mohrmann would be opposed to lengthening the public process if that benefits residents.

MR. MOHRMANN clarified that he isn't opposed to a full and open public hearing process. He further clarified that the open public hearings the City & Borough of Juneau holds as a deferred jurisdiction far exceed what's specified in the legislation.

[9:56:15 AM](#)

REPRESENTATIVE MILLETT asked if Mr. Mohrmann could provide the list of questions he stated in his testimony.

MR. MOHRMANN agreed to do so.

[9:57:30 AM](#)

JESS HALL, Homebuilder, told the committee that he has been a homebuilder for 35 years and has spent much time talking with customers regarding costs and safety features. He then recalled building a home for a young couple in the Mat-Su Valley. Originally, he built the couple a small starter home, but after having kids he built them a larger home. After discussing with the couple, of which the husband was a firefighter, what features they desired in the home, the couple said they wanted to install a sprinkler system. However, the couple decided not to install the sprinkler system but rather do other upgrades. Later the bid for the sprinkler system came in at \$6,000-\$8,000. Mr. Hall said due to all other code requirements he would tend to agree with this firefighter who didn't feel the need to install sprinklers in his home. However, he pointed out that outside of Palmer, there is no building code and thus residents can build whatever and not meet the safety codes. He reviewed a recent change for safety that didn't add that much cost to the homeowner and contrasted that to the costly mandate of fire sprinklers that may also require the installation of pressure tanks because the home uses a well. He opined that the people who build homes need to decide if they want fire sprinklers. Furthermore, there are other systems, such as misters, that are lower cost than fire sprinkler systems. In conclusion, Mr. Hall opined that HB 202 makes sense.

[10:02:40 AM](#)

CO-CHAIR HERRON announced that Representative Keller is considering an amendment to the cost benefit analysis provision of HB 202. He reiterated his intent to move HB 202 from committee next week.

[10:03:14 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:03 a.m.